



FOR INFORMATION

PUBLIC

OPEN SESSION

TO: Academic Board

SPONSOR: Mr. Christopher Lang, Director, Appeals, Discipline and Faculty Grievances

CONTACT INFO: christopher.lang@utoronto.ca

PRESENTER: See Sponsor

CONTACT INFO:

DATE: May 25, 2015 for June 1, 2015

AGENDA ITEM: 14(b)

ITEM IDENTIFICATION: Academic Appeals Committee, Individual Reports Spring, 2015

JURISDICTIONAL INFORMATION:

Section 2.1 of the Terms of Reference of the Academic Appeals Committee describes the function of the Committee as follows:

To hear and consider appeals made by students against decisions of faculty, college or school councils (or committees thereof) in the application of academic regulations and requirements and to report its decisions, which shall be final, for information to the Academic Board. The name of the appellant shall be withheld in such reports.

Section 5.3.4 of the Terms of Reference of the Academic Board provides for the Board to receive for information Reports of the Academic Appeals Committee without names.

GOVERNANCE PATH:

- 1. Academic Board [for information] (June 1, 2015)**

PREVIOUS ACTION TAKEN:

The last semi-annual report came to the Academic Board on November 13, 2014.

HIGHLIGHTS:

The purpose of the information package is to fulfill the requirements of the Academic Appeals Committee and, in so doing, inform the Board of the Committee's work and the matters it considers, and the process it follows. It is not intended to create a discussion regarding individual cases or their specifics, as these were dealt with by an adjudicative body, with a legally qualified chair and was bound by due process and fairness. The Academic Appeals Committee's decisions are based on the materials submitted by the parties and are final.

FINANCIAL IMPLICATIONS:

There are no financial implications.

RECOMMENDATION:

For information.

**THE UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

Report # 377 of the Academic Appeals Committee
December 11, 2014

To the Academic Board
University of Toronto

Your Committee reports that it held a hearing on Thursday, October 30, 2014 at 1:45 pm, at which the following members were present:

Ms. Sara Faherty, Chair
Ms. Caitlin Campisi, Student Governor, Governing Council
Professor William Gough, Faculty Governor, Governing Council

Ms. Sinéad Cutt, Office of Appeals, Discipline and Faculty Grievances

Appearances:

For the Student Appellant:

Mr. F. Z., the Student Appellant
Mr. Patrick Hartford, Downtown Legal Services

For the University at Toronto

Professor Anne-Marie Brousseau, Associate Dean, Undergraduate Programs,
Faculty of Arts and Science
Professor Adrienne Hood, Associate Dean, Undergraduate Programs, Victoria
College, History
Dr. Helen Slade, Student Life, Co-ordinator, Student Retention Services at
University of Toronto
Ms. Cheryl Shook, Registrar, Woodsworth College

I. Appeal

The Student appeals a unanimous decision of the University of Toronto, Faculty of Arts and Science Academic Appeals Board dated April 23, 2014, which upheld a decision of the Committee on Standing. The Committee on Standing had denied the Student's petition for a second deferral of his examination in APM346H1F, on the grounds that he had not provided acceptable appropriate documentation.

II. Facts

The Student was registered in APM346H1F in the Fall 2012 term, and did not write the final exam due to illness. The Faculty granted him a deferral to April 11, 2013 to write the exam. For reasons outlined below, the Student was more than thirty minutes late for his deferred exam on April 11, 2013, and is seeking a second deferral of the exam.

The fact that the Student had an examination on the Scarborough campus in the morning and an exam on the St. George Campus in the afternoon gave him approximately two hours to get from one site to the other. A constellation of problems (the Student needing to eat something between the exams; his exercising his right to contest an adverse decision made by an invigilator at the morning exam; extremely inclement weather; and unfortunate public transportation timing) converged to make the Student about one-half hour late for his afternoon exam in APM346H1F.

In his August 8, 2013 petition the Student listed five separate reasons for his lateness, which he argued were cumulative. In one of them he expressed some ambivalence about taking the afternoon exam, referring to a dispute he had with an invigilator after his morning exam, and writing:

“mental distress and delay STAC62H exam issues: authorized aid and delay As I *already knew this traumatic event* due to UTSC error I would not “function at full potential” *before entering 2 pm exam, I followed no write rule, reasonably chose to miss as no consideration will be given after exam is written.*”

In addition to this factor he also cited a banking problem he needed to resolve before his morning exam, a dispute with an invigilator that he needed to resolve after that exam, a long line at the UTSC Tim Horton’s, extreme weather, and TTC delays. (Tab 22, Student’s submission.)

The Academic Appeal Board accepted the Student’s explanation for his lateness on April 11, 2013. It found the more critical issue in this case to be the Student’s actions and choices once he realized he was significantly late for the afternoon exam: “However, when you recognized that you were not going to arrive on time for the examination on the St. George Campus, you did not seek any immediate remedy.”

Just like his explanations for his tardiness, the Student offered a constellation of justifications for his decision to leave campus. He referred to a standing arrangement he had with the Faculty of Arts and Science, whereby he was asked to interact exclusively with Woodsworth College Registrar, Cheryl Shook, and then only after having contacted her by e-mail to make an appointment. (Tab 18, Student’s submission.) The Student also pointed out that he did not have his cell phone with him that day, pursuant to examination rules. The Student instead determined that he would bring up the missed deferred exam with Ms. Shook at a previously scheduled meeting he had with her later that week. That meeting was subsequently delayed, but he chose to wait for that meeting nonetheless before mentioning his missed examination.

The Appeal Board unanimously denied the Student's appeal, relying on the Student's written comments about following the no-write rule in his petition. The Appeal Board also found that the Student could have contacted Ms. Shook by e-mail, noting the availability of computers in the library (which the Student acknowledged accessing that day in order to check his assigned exam room). Ms. Shook appeared at the Appeal Board hearing, testifying to two important facts: first, that she had not received an e-mail from the Student that day; and second, explaining that had he contacted her office on that afternoon she or one of her staff members would have addressed the issue so he could have written the exam that day. The Appeal Board pointed out that such an arrangement "would normally be the remedy for arriving late to an exam."

At his hearing in front of this committee, the Student pointed out that the policy regarding the appropriate actions for a student who is more than 30 minutes late for an exam was opaque during the 2013-2014 academic year. A very clear rule, which appeared in previous iterations of the Calendar under the "Rules for the Conduct of Examinations" section, read, "Students who arrive later than fifteen minutes after the commencement of the examination should go immediately to the Office of the Faculty Registrar (day exams only). Should you arrive at the hall up to 15 minutes late you will receive the remainder of the time left in your examination." This rule precisely identified the predicament the Student was in, and gave clear guidance as to how he should have responded. Unfortunately, this language was not included in the 2013-2014 calendar. The Division explained that this omission was inadvertent, and that the language has since been restored to the Calendar.

The Student testified that in the absence of specific guidance on what to do when he was more than fifteen minutes late for an exam, he relied on more general language under the heading, "Rules and Regulations Petitions for Examinations." These rules define "petitions" as concerning issues relating to degree requirements, academic regulations, examinations and administrative rules." It instructs students that they must "demonstrate that they have acted responsibly and with good judgment in attempting to observe Faculty regulations." It sets the deadline for petitions for examinations as being within one week of the end of the examination period. The Student told the panel that he believed this was the relevant rule for his situation, and that he followed it when submitting his petition within one week of the end of the examination period. Under this analysis, the Student's special arrangement with the Faculty, and his presumptive access to library computers are inapposite - if the Student had weeks in which to file his petition, there was no pressing need to contact Ms. Shook the afternoon he missed his exam.

III. Decision

The facts of this appeal are, from the Division's perspective, coloured by the Student's long history of petitions and problems. The reason for the special arrangement whereby he was permitted to interact only with Ms. Shook was the "numerous complaints about the behaviour of the appellant." The Faculty of Arts and Science reported that this Student has filed more than 30 formal petitions and made more than 90 different requests

during his time at the University. These demands, together with many extremely difficult interpersonal exchanges have made dealing with the Student a challenging and thankless task. It is clear that the Faculty of Arts and Sciences has spent a disproportionate amount of its resources responding to the Student's petitions and demands. Ms. Shook, especially, has been extraordinarily patient with the Student. It seems that he has repeatedly used and sometimes abused their policies to his advantage. The Faculty is understandably exasperated with him.

In spite of the fact that this Student has been difficult and demanding, (or perhaps *because* the Student has been difficult and demanding), it is important that the Faculty follow its policies when dealing with him. Through an unfortunate error, the specific rule instructing Students how to behave when they are very late for an exam was omitted from the 2013-2014 Calendar. The Faculty concedes that the Calendar was silent on the specific issue confronted by the Student. The onus was on the Student to behave "responsibly and with good judgment." The Registrar testified that her expectation was that a reasonable student would come to her office immediately if he or she was more than fifteen minutes late for an exam. Had the Student done so, Ms. Shook would have arranged for him to write the exam in APM346H1F that day.

This Panel agrees that this would have been the most reasonable step for the Student to take. However, given the missing instructions addressing what steps students should take if more than fifteen minutes late for an exam, and the presence of the apparently relevant rule guiding petitions, it was not the *only* reasonable step for the Student could have taken. His decision to follow the petitions rule was not ideal, but your committee has concluded it was not unreasonable. If students were generally expected to know that they should immediately report to the Registrar's office when they were more than fifteen minutes late for an exam, then there would be no need for the specific rule that usually appears in the Calendar.

This Panel understands that dealing with this Student has been frustrating for the Faculty of Arts and Science, and we commend the Registrar's forbearance towards him. The present circumstances were clouded by his multiple explanations for his lateness, and multiple explanations for his decision to leave campus. This panel is generally tasked with determining whether a division has applied its policies fairly and consistently. Strictly following the written policy as it appeared in the 2013-2014 Calendar, this panel concludes that the Student should be permitted to sit for his exam in APM346H1F.